

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 533 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE D.C.SRIVASTAVA sd/-  
and  
Hon'ble MR.JUSTICE H.K.RATHOD sd/-

- =====
1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO  
No
  2. To be referred to the Reporter or not? No :
  3. Whether Their Lordships wish to see the fair copy of the judgement? : NO  
No
  4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO  
No
  5. Whether it is to be circulated to the Civil Judge? No :

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PANCHMAHAL DISTRICT PANCHAYAT

Versus

LUCKY CONSTRUCTION  
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Appearance:

MR MUKESH R SHAH for Petitioners  
MR MA KHARADI for Respondent No. 1  
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CORAM : MR.JUSTICE D.C.SRIVASTAVA  
and  
MR.JUSTICE H.K.RATHOD

Date of decision: 16/02/2000

ORAL JUDGEMENT

(Per : D.C.Srivastava, J.)

1. This is an Appeal against the Judgment and order dated 5.5.1998 of 3rd Joint Civil Judge (S.D.), Panchmahals at Godhra, making the Award rendered by the Sole Arbitrator Shri M.C.Desai, appointed by the Court rule of the Court and directing the Decree be drawn in terms of the Award.

2. Learned Counsel for the parties have been heard. The Memo of Appeal shows that the order of the Court below has been challenged on as many as four grounds. We have examined those grounds and also examined the provisions of Section 30 of the Arbitration Act.

3. Brief facts are that to settle the dispute between the parties, sole Arbitrator Shri M.C.Desai was appointed. He entered upon the reference, permitted the parties to adduce evidence in support of their claim and contentions and after hearing the arguments rendered the Award dated 29.12.1997. We have gone through this Award. The Arbitrator in the award has clearly mentioned that he had heard both the parties and also perused and carefully considered the pleadings, oral arguments and written submissions, documents, evidence and exhibits produced in addition to their claim statement, replies and rejoinder in the light of the contract agreement, Standard of Engineering Contract Law and Arbitration Law. The Arbitrator has also considered all the ten scheme itemwise separately giving some reasons in support thereof. It is, therefore, not a case where non-speaking award was rendered by the Arbitrator. The Arbitrator is not expected to write a detailed judgment which is expected from a Court of law.

4. Under Section 30 of the Arbitration Act, an Award can be challenged only on three grounds. The first is whether the Arbitrator or Umpire has misconduct himself or proceedings. In this ground personal misconduct of the Arbitrator or misconduct with the proceedings in arbitration can be a ground for setting aside the Award provided these averments are proved. There is no such averment that the arbitrator misconducted personally or with the proceedings. As such on this ground the Award could not be set aside.

5. The second ground is where the Award has been made after the issue and order by the Court superceding the arbitrator or after the arbitration proceedings have become invalid under Section 35 of the Act. There is no allegation that on this ground the Award is liable to be set aside.

6. The third ground is that Award has been improperly procured or is otherwise invalid. There is no allegation that the respondent has improperly procured the Award. Nothing could be shown by Shri Shah that the Award is otherwise invalid.

7. We have also examined the judgment under Appeal. The Court below has rightly observed that only on two grounds the Award was challenged. The first was that Special Civil Suit No.792 of 1988 was not considered by the Arbitrator. It is not a case where non-consideration of pendency of this Special Civil Suit could have rendered the decision of the Award in favour of the Appellant. Consequently and more particularly since this was not material evidence and if in these circumstances it was not considered by the Arbitrator the Award is not rendered illegal or invalid. The second ground was that cogent reasons have not been given by the Arbitrator. Needless to say that the Arbitrator is not expected to give reasoned Award. Whatever reasons have been given by the Arbitrator in the impugned Award are sufficient to up-hold the same. It cannot be said that the Award is non-speaking or unreasoned Award. Neither the trial Court nor the Appellate Court can set aside Award on the ground that cogent or sufficient reasons have not been given by the Arbitrator.

For the reasons stated above, we do not find any merit in this Appeal, which is hereby dismissed with no order as to costs.

sd/-

( D. C. Srivastava, J. )

Date : February 16, 2000 sd/-

( H. K. Rathod, J. )

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